IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 5161 of 1996

Between:

P. Sarat Babu S/o P. Pandu
R/o Dibrugarh, Assam State

..... PETITIONER

AND

1 Union of India Department of Telecommunications,
New Delhi.
(dismissed for default as court order dt.4.4.2000)
2 Chief General Managaer Telecom,
Gauhati.
(dismissed for default as per court order dt.4.4.2000)
3 Member, Services/Advisor,
Sanchar Bhavan, New Delhi
(dismissed for default as per court order dt.4.4.2000)
4 State of A.P. rep. by Secretary
Home Dept., Secretariat,
Hyderabad.
5 Dy. Inspector General of Police,
A.P., Hyderabad.
6 Sub Inspector of Police,
Amberpet P.S., HYderabad
7 Smt. P. Subhashini W/o Sri P. Sarat Babu
H.No.2-2-1075/14, Bagh Amberpet,
Hdyerabad-13

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of writ of

Mandamus declaring the action of the respondents 3 to 6 in detaining the Petitioner from 13-1-1996 to till 17-1-1996 as illegal, arbitrary, voilative of all cannons of law and justice and consequently direct the respondents to quash the Proceedings in Cr.No.224/95 on the file of the XXII Metropolitan Magistrate, Hyderabad forthwith

Counsel for the Petitioner: MR.T.S.ANAND

Counsel for the Respondents 4, 5 and 6: GP FOR HOME

The Court made the following:

O R D E R:

The petitioner, who is an employee in the second respondent, filed this writ petition, *inter alia,* seeking a Mandamus challenging the action of the respondents in detaining him from 13-01-1996 to 17-01-1996 as illegal.

The facts of the case, in brief, are that on 05-05-1993, the petitioner married the seventh respondent. On 05-05-1995, in the course of employment, he was transferred and posted at Dibrugarh and accordingly he shifted there along with his family. While so, on 19-09-1995 his wife was found missing. Thereafter, his in-laws filed a complaint under Section 498-A I.P.C. Subsequently, his wife herself also filed another complaint under Section 498-A I.P.C. which was registered as Crime No.24 of 1995, whereupon, he was arrested on 13-01-1996 and was produced before the Magistrate concerned on 17-01-1996. Subsequently, he was released on a regular bail on 20-01-1996. It is pointed out by the petitioner that on 03-01-1996 itself, he obtained anticipatory bail and therefore, the question of arresting him subsequent thereto does not arise. Therefore, the arrest made on 13-01-1996 and the detention till 17-01-1996 is illegal. Hence, the writ petition.

Having heard the counsel for the petitioner and also on perusal of the material on record, it is seen that this Court has already granted interim directions dated 19-03-1996 in W.P.M.P.No.6351 of 1996 directing respondents 1 and 2 not to arrest the petitioner and to allow him to continue in service and the said interim orders are still in force.

Having regard to the fact that the interim directions are still in force all

along, I do not find any justification for the respondents to arrest the petitioner again, more so, when he obtained bails in 1996 itself.

In the circumstances, it would suffice, in the interests of justice, to direct early disposal of the criminal cases instead of putting the petitioner behind the bars. Further, having regard to the fact that the petitioner had obtained anticipatory bail, he could not have been arrested. In view of the same, the arrest of the petitioner on 13-01-1996 is quite illegal and the same cannot be done for any purpose.

The writ petition is accordingly allowed. However, it is open to the authorities and parties concerned to proceed with the enquiry in regard to the criminal cases, which have already been registered and the same shall be disposed of on merits, in accordance with law, as expeditiously as possible. No costs.

(**B. PRAKASH RAO, J**)

Date: 23-11-2004

ghn

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday, the twenty third day of November, Two thousand and Four.

To

1 The Secretary, State of A.P., Home Dept., Secretariat,
Hyderabad.

2 Deputy Inspector General of Police,
A.P., Hyderabad.

3 Sub Inspector of Police,
Amberpet P.S., Hyderabad

4 Two CCs to the Government Pleader for Home, High Court of A.P., Hyderabad.
(O.U.T.)

5 Two CD copies.